



U.S. SENATE COMMITTEE ON

Commerce, Science, and Transportation

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Opening Statement of Senator Ernest F. Hollings Hearing on the Financial Turmoil in the Telecommunications Marketplace and Maintaining the Operations of Essential Facilities

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We are here this morning to address the state of the communications industry. As it stands, the industry is in the midst of a financial crisis. It is also experiencing a crisis of confidence, as it concerns the integrity of many of its key players.

The economic downturn that took hold of the American economy close to eighteen months ago indeed set back growth in a number of American industries. The telecommunications industry, however, has been especially hard hit. In 2001, the sector lost 317,777 jobs, and in the first 6 months of 2002, the sector lost 165,840 jobs an increase of 27 percent from the same period in 2001. The magnitude of the sector's present depression is exemplified by the fact that within this same period the industry lost \$2 trillion in stock value.

This economic devastation, however, has not been limited to the wireline companies. Both the wireless and cable industries also have had to deal with the negative effects of the market regression.

Unfortunately, and especially as it concerns the telecommunications sector, these economic problems have been exacerbated by allegations of accounting fraud by key entities in the industry, on both the long distance and Bell Company sides. The most significant cases, of course, involve WorldCom – the number two long distance provider in the country – and Qwest – a major provider of local service in the midwestern and western states. Both have been accused of doctoring their books to the tune of billions, with WorldCom alone having faked profits and earnings in an amount of \$3.8 billion.

Although these revelations have occurred in concert with incidences of massive corporate fraud across the spectrum of the American marketplace, this does not negate the particular devastation that has been experienced by the telecommunications sector and the communications industry as a whole. Not only were investors duped and cheated, so were the companies' competitors and potential competitors. By feigning earnings and profits, these companies were able to gain positions in the market that they otherwise may not have achieved. This is not right and cannot be tolerated.

I helped write and remain a strong supporter of the 1996 Telecommunications Act. However, it doesn't matter what act or law or philosophy governs the marketplace. When companies engage in

outright fraud, no matter the particular industry, they gain the ability to upset the very purpose of those laws.

As a consequence of the misdeeds that have occurred with these companies, millions of Americans risk a disruption of service. This hearing is designed to shed some light on this situation and to ensure that both the FCC and Congress are poised to take the appropriate action necessary to protect consumers, maintain stability in the market, and preserve the mission of achieving a dynamic competitive telecommunications marketplace.

But we also cannot ignore the fact that part of the problems we are addressing involve larger policy issues – such as the broad policy of this Administration. We all know that the SEC has a major role in addressing the current crisis in the financial markets. This crisis has been precipitated not only by the fraud inside companies, but fraud that has been facilitated by accountants and financial analysts. But we should not be too surprised by the depth of restatements we are witnessing given that the current SEC Chairman came into office making clear he would enforce SEC rules in concert with the Bush Administration's ideology: pursue massive deregulation at all cost. Well, we can see what that policy has gotten us: Enron and billions of lost investments by average, every-day working Americans. I want to make sure this policy doesn't destroy the telecommunications industry.

As it stands, we must take at least three major actions. The first priority must be to ensure that consumers continue to receive service, especially as it concerns companies that are currently in, or may be on the brink of, bankruptcy. Second, there must be efforts to address issues concerning the state of all industry sectors. At this point, these industries are so inter-connected that major problems in one will certainly affect the other. Lastly, we must also ensure a dynamic and competitive telecommunications market. It would be tragic if regulators sought to use this current crisis as justification for forgoing the goals of securing competition in the industry.

As noted, with regard to the financial troubles facing the telecommunications industry, my principal concern at this point is ensuring that consumers continue to receive service. This is particularly important since the nation's ability to engage in commerce is heavily dependent on communications. Also, residential consumers rely upon the communications network in emergencies as well as for day to day activities. The U.S. communications network is the best in the world; thus, we, as policy-makers, must make sure that as we weather this difficult economic period, our communications network does not become a casualty.

The FCC has authority under Title II of the Communications Act to intervene with respect to common carriers and work to maintain telecommunications service to consumers. I believe it will be useful to hear what actions the FCC is taking to address this issue in light of some of the existing bankruptcies. We also look forward to FCC guidance as to whether the FCC has sufficient authority, or needs additional authority, to ensure that consumers receiving communications services from companies that are not common carriers are, nevertheless, protected from abrupt service terminations. Most notably, with respect to Bell broadband service, I am concerned that the FCC is going down a path in which it could, in effect, relinquish its existing authority to intervene when a carrier terminates service.

I look forward, as well, to hearing from the companies about what is being done to remedy

improper accounting practices, in addition to having a better understanding of the difficulties that they are presently experiencing. An understanding of these difficulties hopefully will aid us in taking appropriate action as Members of Congress to keep the nation's viable telecommunications network properly functioning.

As I noted previously, the telecommunications network is an interlocking network. Carriers receive and hand-off traffic to other carriers. Therefore, if a carrier goes into bankruptcy and is required to continue service, but cannot pay its debts, this could have an adverse impact on other carriers if those carriers are required to continue carrying the traffic of the carrier in bankruptcy without compensation. The FCC should carefully examine these potential domino effects and the extent to which they could prevent carriers from serving consumers. A point that deserves considerable emphasis, however, is the fact that the FCC must actively guard against allowing carriers to use these unfortunate economic situations as a means to undermine competitors or competition in general.

With that said, I welcome the witnesses and look forward to hearing their testimony.

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